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January 8, 2009

*Via Hand Delivery*

Marlene H. Dortch  
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Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554

FILED/ACCEPTED

JAN - 8 2009

Federal Communications Commission  
Office of the Secretary

Re: *In the Matter of TCR Sports Broadcasting Holding, L.L.P. v. Comcast Corporation*, No. CSR-8001-P, MB Docket No. 08-214

Dear Ms. Dortch:

Please find enclosed the original and four copies of Motion for Expedited Status Conference being filed with the Media Bureau on behalf of TCR Sports Broadcasting Holding, L.L.P. d/b/a Mid-Atlantic Sports Network in the above-captioned docket.

Please feel free to contact me if you have any questions.

Respectfully submitted,



David C. Frederick

Enclosures

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**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)
	)
TCR Sports Broadcasting Holding, L.L.P.,	)
	)
Complainant,	)
	)
v.	)
	)
Comcast Corporation,	)
	)
Defendant.	)

MB Docket No. 08-214

File No. CSR-8001-P

**FILED/ACCEPTED**

**JAN - 8 2009**

*Federal Communications Commission  
Office of the Secretary*

To: Chief, Media Bureau

**MOTION FOR EXPEDITED STATUS CONFERENCE**

1. Pursuant to 47 C.F.R. § 76.8(b), TCR Sports Broadcasting Holding, L.L.P, doing business as Mid-Atlantic Sports Network ("MASN"), hereby requests that the Bureau convene a status conference for the purpose of establishing a case management plan for the timely resolution of this proceeding. MASN respectfully requests that the Bureau convene the status conference promptly, no later than by the end of the week of January 12, 2009.

2. On July 1, 2008, MASN filed a program carriage complaint against Comcast Corporation ("Comcast"). That complaint alleges that Comcast has violated Section 616 of the Communications Act and this Commission's implementing rules by unreasonably and discriminatorily refusing to carry MASN in important regions of MASN's seven-state Television Territory. Sports fans in those regions have continued to be denied access to MASN's must-have programming during the course of this proceeding.

3. On October 10, 2008, the Bureau issued an order concluding that MASN had made out a *prima facie* case of discrimination, and rejecting all of Comcast's threshold legal defenses, including Comcast's contract-based defenses. See *Hearing Designation Order*.<sup>1</sup> The Bureau found, however, "that the pleadings and supporting documentation present several factual disputes, such that [it was] unable to determine on the basis of the existing records whether we can grant relief based on these claims." *Id.* ¶ 7. The Bureau thus designated MASN's case (among others) for a hearing before an ALJ. See *id.* ¶¶ 119, 120-121. However, cognizant of the need for "expedited review," 47 U.S.C. § 536(a)(4), the Bureau "order[ed] that the ALJ return Recommended Decisions in this matter[] to the Commission pursuant to the procedures set forth below within 60 days." *HDO* ¶ 3.

4. As the Bureau is aware, the 60-day deadline has come and gone. Therefore, on December 24, 2008, the Bureau issued the *Jurisdiction Order*, concluding that "the ALJ's authority to issue a recommended decision in these proceedings expired" and that the Bureau "will . . . proceed to resolve the carriage disputes." *Jurisdiction Order* ¶ 16.<sup>2</sup> As the Bureau is also aware, in the wake of the *Jurisdiction Order*, Comcast – among other defendants – encouraged the ALJ to ignore the Bureau's decision and to treat it as a nullity. On January 6, 2009, the ALJ issued an order<sup>3</sup> suggesting that he would take the unprecedented step of disregarding the Bureau's binding determination that the ALJ's authority had expired, and that the ALJ may push forward with discovery and a hearing (albeit on a drawn-out schedule). On

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<sup>1</sup> Memorandum Opinion and Order, DA 08-2269 (MB rel. Oct. 10, 2008), as modified by *erratum* adopted and released October 15, 2008 ("*HDO*").

<sup>2</sup> Memorandum Opinion and Order, DA 08-2805 (MB rel. Dec. 24, 2008) ("*Jurisdiction Order*").

<sup>3</sup> Order, FCC 09M-01 (ALJ rel. Jan. 6, 2009).

January 7, 2008 Comcast – among other Defendants – filed a Supplemental Notice<sup>4</sup> with the full Commission, asking the Commission to address (at 3) what it asserts are the potential harms resulting from a “parallel, conflicting adjudication process,” which Comcast itself brought about by inviting the ALJ to disregard the *Jurisdiction Order*.

5. In view of these developments, MASN submits that an expeditious status conference would be of great value the parties. The Commission’s rules provide that “[a]ny party may request [a status] conference be held at any time after an initiating document has been filed.” 47 C.F.R. § 76.8(b). A conference would useful and appropriate here for at least two reasons. First, a conference would substantially aid in expeditious resolution of this proceeding by identifying (i) the additional factual issues about which the Bureau needs further information from the parties and (ii) additional process, discovery, or other papers that the Bureau may require to resolve MASN’s complaint. Second, a status conference would be an opportunity for the Bureau to provide the parties with its guidance regarding Comcast’s efforts to lead the ALJ into further error by disregarding the terms of the *Jurisdiction Order*. In that way, the Bureau could also address Comcast’s stated concern that there will be “parallel, conflicting” processes by making clear that this Bureau now has jurisdiction over this matter.

6. Continuing delay in resolution of MASN’s complaint would not only be at odds with Congress’s mandate of expeditious resolution of carriage complaints, but would likely encourage Comcast to continue its efforts to bog this matter down in costly and unnecessary discovery and delay in *ultra vires* proceedings before the ALJ. The Bureau has already recognized the public interest in expeditious resolution of MASN’s complaint, *see Jurisdiction*

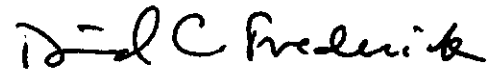
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<sup>4</sup> Defendant’s Supplemental Notice in Support of Emergency Motion for Stay and Emergency Application for Review (filed Jan. 7, 2009).

Order ¶ 15 n.45, and an expedited status conference would serve all parties in moving toward a fair, efficient, and prompt resolution of this matter.

7. For these reasons, MASN respectfully requests that the Bureau convene a status conference promptly, no later than by the end of the week of January 12, 2009.

Respectfully submitted,



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January 8, 2009

*Attorneys for TCR Sports Broadcasting Holding, L.L.P.*

## **CERTIFICATE OF SERVICE**

I, David C. Frederick, hereby certify that, on January 8, 2009, copies of the foregoing document was served as follows:

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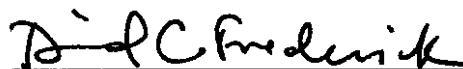
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